

**SUPERIOR COURT  
OF THE  
STATE OF DELAWARE**

**T. HENLEY GRAVES**  
*RESIDENT JUDGE*

**SUSSEX COUNTY COURTHOUSE  
ONE THE CIRCLE, SUITE 2  
GEORGETOWN, DE 19947**

February 5, 2009

William D. Downes, Jr.  
SBI No.  
James T. Vaughn Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

**RE: State v. William Downes, Jr. - Defendant ID No. 9408020702(R-3)  
Motion for Postconviction Relief**

Dear Mr. Downes:

On January 27, 2009, the Court received your third Motion for Postconviction Relief. Following a jury trial, you were sentenced on March 24, 1995 for the offenses of attempted murder in the first degree, assault in the first degree, possession of a firearm during the commission of a felony, burglary in the first degree, reckless endangering in the first degree, and a second charge of possession of a firearm during the commission of a felony. You received a life sentence.

The following case history is taken from the Court docket:

In May, 1996, the Supreme Court affirmed your direct appeal. Your first Motion for Postconviction Relief was filed in 1999, denied, and subsequently affirmed by the Supreme Court in 2001.

In 2006, you filed a second Motion for Postconviction Relief which was denied and also affirmed by the Supreme Court in 2006.

In your third Motion for Postconviction Relief, you allege that your attorney was ineffective at sentencing, and that the Court erred in considering aggravating factors offered by the State.

Pursuant to Superior Court Criminal Rule 61(i), your Motion for Postconviction Relief must be denied as being procedurally barred.

At the time you were convicted, Rule 61 allowed an individual to file a Motion for Postconviction Relief for a period of time not to exceed three years following the time that the judgment became final. In your case, the judgment became final when the Supreme Court affirmed your conviction on direct appeal in 1996. This third Motion, filed twelve years from the date the conviction became final, comes too late. Therefore, pursuant to Rule 61(i)(1), it is dismissed.

It is also dismissed because it is a repetitive motion and contains grounds which could have been asserted earlier. Therefore, it is dismissed pursuant to Superior Court Criminal Rule 61(i)(2).

In procedurally dismissing this Motion, I note that the Defendant earlier raised a claim of ineffective assistance of counsel that was denied. Therefore, he could have pursued the claims contained in the present Motion.

Defendant's most recent Motion for Postconviction Relief filed on January 27, 2009 is denied.

**IT IS SO ORDERED.**

Yours very truly,

/s/ T. Henley Graves

T. Henley Graves

baj  
cc: Prothonotary  
Department of Justice